

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-28 are pending and stand rejected.

Claims-1 28 stand rejected under 35 USC 112, first paragraph for containing subject matter not describe in the specification. The Office Action states that the specification does not disclose the claim elements "... contains sufficient inappropriate contents items to exceed a known threshold of at least one predefined inappropriate content item ... selected from visual items ... by evaluation of facial expressions ... selected from the group consisting of : anger, fear ... intensity of expression."

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

The present invention, as illustrated in Figure 4 and described on page 7, line 9- page 10, line 4, recites a process that performs a test on requested and received electronic media objects (see page 7, lines 10-12). A test is performed at step 430 to determine whether the media objects contain one or more defined stop words (see page 7, lines 18-22). Another test is then performed at step 450 to determine whether the media objects contain one or more stop words based on speech recognition analysis. (see page 7, lines 28-32). Another test is then performed at step 470 to determine whether the media objects contain nudity or sexually explicit images or other inappropriate imagery. (see page 8, lines 6-8). The invention further recites that "violence may be identified in the electronic media" (see page 9, lines 3-4) and that typical facial expressions associated with violent content may be identified (e.g., anger, fear, disgust, sadness, etc.) (see page 9, lines 21-26).

The specification then describes that "at step 470 if the received electronic media object does not contain nudity or other sexually explicit image, then the electronic media object can be presented ... If, however, it is determined during step 470 that ... nudity [exists] then program control proceeds to step 480 (see page 9, lines 27-33).

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The specification then describes a variation wherein "a number of the conditions in steps 430, 450 and 470 can be aggregated to prevent access to the electronic media object, e.g., if a certain threshold or stop words or nudity are present in an electronic media." (see page 10, lines 1-4).

Accordingly, the specification provides for the determination of violence based on facial expressions as one of the criteria for determining inappropriate material and that the threshold can be utilized to determine when sufficient inappropriate material is included within the media object. Hence, it would be well within the ability of those having ordinary skill in the art to determine inappropriate content from visual items being determined from facial expression as is recited in the claims by modifying step 470 (or adding a new step) to include determination of facial expression. Similarly, the aggregation of the stop words, sexually explicit material and facial expression (i.e., at least one predetermined content item) can be included in the flow chart shown in Figure 4 (see page 10, lines 1-4) to include a threshold check that sufficient inappropriate material is determined in the media object.

Hence, for this reason, applicant believes that the written description provides sufficient disclosure to enable one skilled in the art to practice the subject matter recited in the independent claims and that the rejection of the claims has been overcome.

Applicant respectfully requests that the rejection of the claims be withdrawn.

Claims 1, 5, 6, 8-10, 12, 16 17, 19-21, and 23-28 stand rejected under 35 USC 103(a) as being unpatentable over Emens (USP no. 6,493,744) in view of Durden (USPPA 2004/0250272), which are the same references cited in the prior Office Action for rejecting the claims. In response to applicant's arguments the Office Action further states that Emens discloses limiting display of inappropriate content (see OA, page 4, lines 2-7) but fails to disclose visual items such as anger (*id.*, lines 7-112). The Office Action further states applicant admits as prior art that facial expressions can be analyzed and nudity can be determined (*id.* lines 16-18) and Durden discloses at least one predefined appropriate content item wherein said access is allowed at least based on said

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predefined appropriate content (see Durden section 0069) (see page 4, line 22-page 5, line 2).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

With regard to the reference to Duran paragraph 0069, a reading of this section reveals that Duran defines "content" as being a value associated with a content attribute system "such as one associated with a TV rating system (V,S,L,D,FV) or MPAA." Duran further discloses that the content value may be a multiple level scheme where "[v]iolence (V) could be rated on a scale of 1-5 during the course of a program. Such ratings provide viewers with finer control over the level of violence blocked or modified." (see para. [0062], col. 5).

Duran, accordingly, teaches a system wherein the "content" attributes are rated for each scene or frame within the context of a rating system to allow for finer resolution of the level of objectionable material.

Hence, the combination of Emens and Duran teaches a system wherein the rating vectors of Emens may be refined by the rating scale described by Duran.

The Office Action then uses the teachings of the instant application to selectively incorporate claimed subject matter into the Emens reference to show that all the elements claimed could be found in the prior art. However, although the Court in the recently decided *KSR v. Teleflex* (citations omitted) case held that in determining obviousness the knowledge of those skilled in the art may be considered and the teaching, suggestion, motivation (TSM) developed by the Court of Appeals for the Federal Circuit must be flexibly applied, the Court further warned that "factfinders should be aware ... of the distortion of hindsight bias and must be cautious of arguments reliant on *post-facto* reasoning."

In this case, the Office Action has incorporated the teachings of the evaluation of facial expressions into the teachings of Emen because Emen describes determining visual images. However, the problem to be solved by Emen is to determine inappropriate content of audio and/or visual images (nudity, violence) and not content associated with facial expressions.

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Hence, in this case, applicant submits that the Office Action has impermissibly used the teachings of the instant application as a blueprint to combine the teachings of the recited references and that the invention recited in claim 1 is not rendered obvious by the teachings of Emens and Durden as these references have been impermissibly combined.

For at least this reason, applicant submits that the rejection has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and were rejected citing the same references used in rejecting claim 1. Thus, applicant's remarks made in response to the rejection of claim 1 are also applicable in response to the rejection of these claims. Applicant submits that for the remarks made with regard to the rejection of claim 1, which are reasserted, as if in full, in response to the rejection of the remaining independent claims, the rejection of these claims has been overcome and respectfully requests withdrawal of the rejection and allowance of the claims.

With regard to the remaining dependent, these claims ultimately depend from the independent claims, which has been shown not to be rendered obvious, and, hence, allowable, over the cited references. Accordingly, the aforementioned claims are also allowable by virtue of their dependence from an allowable base claim.

Claims 2-4 and 13-15 stand rejected under 35 USC 103(a) as being unpatentable over Emens-Durden and further in view of Cragun (USP no. 5,832,212). Claims 7 and 18 stand rejected under 35 USC 103(a) as being unpatentable over Emens-Durden and further in view of Forsyth (Identifying Nude Pictures"). Claims 11 and 22 stand rejected under 35 USC 103(a) as being unpatentable over Emens-Durden and further in view of PR Newswire.

The aforementioned claims each depend from one of the independent claims, which have been shown to contain subject matter not disclosed by the combination of the cited references. Accordingly, the aforementioned claims are not rendered obvious in view of the additional references cited as none of the additional references provides any

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teaching or suggestion to correct the deficiency shown to exist in the teachings of cited references.


For at least this reason, all of the aforementioned claims are allowable and applicant respectfully requests that the rejection(s) be withdrawn.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Yan Glickberg
Registration No. 51,742

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By: 
Steve Cha
Attorney for Applicant
Registration No. 44,069

Mail all correspondence to:
Yan Glickberg, Registration No. 51,742
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9608
Fax: (914) 332-0615